

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI

UNITED STATES OF AMERICA,)
)
) Plaintiff,)
))
) vs.) Case No.
)) 14-00286-01-CR-W-GAF
ERIC G. KING,)
)
) Defendant.)

TRANSCRIPT OF SENTENCING HEARING
BEFORE THE HONORABLE GARY A. FENNER
UNITED STATES DISTRICT JUDGE
JUNE 28, 2016
KANSAS CITY, MISSOURI

FOR THE PLAINTIFF:
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Proceedings recorded by mechanical stenography, transcript
produced by computer

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JUNE 28, 2016

THE COURT: Are you ready, Mr. Edwards?

MR. EDWARDS: Yes, Your Honor.

THE COURT: Ms. Allen, are you ready?

MS. ALLEN: Yes, Your Honor.

THE COURT: Ms. Allen, you reviewed the presentence report with Mr. King; is that correct?

MS. ALLEN: Yes, we have.

THE COURT: And you don't have any objection to any of the information as provided in the report?

MS. ALLEN: Not as to the final report, no, Your Honor.

THE COURT: All right. Thank you.

As reflected in Mr. King's presentence report, there is a statutory mandatory sentence in this case of ten years in the custody of the Bureau of Prisons. That statutory sentence overrides any further guideline application; however, Mr. King is noted to have a criminal history category of I under the guidelines.

Ms. Allen, would you like to speak to what you feel should be the disposition, all of us, of course, recognizing that there's a mandatory ten-year sentence?

MS. ALLEN: Yes, Your Honor.

Mr. King does have one of his friends that would like to make a statement to the Court. Would the Court prefer

1 that happen before or after I speak?

2 THE COURT: You can present that now would be fine.

3 MS. ALLEN: Jude Ortiz would like to make a
4 statement to the Court. Just have him at the podium?

5 THE COURT: That would be fine.

6 Would you state and spell your full name for the
7 record, please.

8 MR. ORTIZ: My name is Matthew Jude Ortiz,
9 M-a-t-t-h-e-w, J-u-d-e, O-r-t-i-z.

10 THE COURT: All right. Thank you. What would you
11 like to say this morning?

12 MR. ORTIZ: I am here today to represent to this
13 court some context that had been lacking in this case so far.
14 I've read all the public documents that have been produced in
15 this case. I understand the charges that my friend and
16 comrade, Eric King, was facing and the one he pleaded guilty to
17 and is about to be sentenced for.

18 I understand the story that the FBI created from the
19 affidavit to obtain the arrest warrant for Eric, the story the
20 prosecution has carried on in this court. And I understand
21 that the sentence you are about to determine is based on this
22 context, this story, and thus devoid of the context that really
23 matters.

24 The FBI stated in the affidavit that the Kansas City
25 Police Department pointed them to Eric as a potential suspect

1 because of the separate investigation into, quote,
2 antigovernment, slash, anarchy, end quote, around the
3 congressperson's office that Eric admitted to attacking with a
4 Molotov cocktail.

5 The FBI also stated that they found a handwritten
6 letter in Eric's apartment that outlined the physical location
7 of the congressperson's office. This is a context presented by
8 the FBI with the assumption that these actions that Eric
9 admitted to are illegal, immoral, wrong. And indeed, according
10 to your laws, they are wrong. And according to your law, the
11 daily violence of the police, of corporation, of the so-called
12 criminal justice system is legal, moral, right.

13 According to your laws, the U.S. government can bomb
14 people around the world, starve people around the world and
15 domestically, deny people clean drinking water in their homes,
16 steal their homes and build pipelines, lock them up for being
17 poor and/or people of color, deny them clean drinking water
18 and --

19 THE COURT: Excuse me, sir. Do you want to say
20 something that's relevant to the sentence for Mr. King? We're
21 not here for you to make a political speech and grandstand on
22 your political viewpoint. Mr. King admitted to the criminal
23 conduct that he's being sentenced for today, and there is a
24 statutory required sentence in this case. So if you want to
25 say something that's relevant to Mr. King, fine. But if you

1 just want to make a political statement, this is not the proper
2 place for that.

3 MR. ORTIZ: I'm making a statement about the context
4 of the case, the context of the conduct that he admitted to.
5 So that context includes, as I just mentioned, and the moral
6 wrongs the government commits, which is part of the context
7 that was being responded to in this situation.

8 THE COURT: All right. Thank you for your time and
9 effort, sir. That will be all.

10 Ms. Allen.

11 MS. ALLEN: Your Honor, we recognize that the only
12 sentence here is a ten-year sentence. I do want to say a few
13 things that I think are important relating to this case.

14 I think the first thing that any of us who have
15 worked on this case know this, but I do worry that the public
16 at large or in general just seeing the media reports would have
17 the belief that this was related to Congressman Cleaver's race
18 or that there was some sort of racist aspect to this attack.
19 Absolutely not. I just want to make that clear and be able to
20 say that in open court.

21 What happened here is that the Ferguson protest
22 began August of 2014. Mr. King went and attended those
23 protests. He marched with protesters in Ferguson, and he saw
24 the treatment of those protesters, and he became very upset.
25 That was directed toward the government, towards the police,

1 towards what he saw happening in Ferguson, and this was done by
2 him as an act of protest. We are not in any way arguing that
3 it was legal, and I am not saying that. He pled guilty. But I
4 do want to explain the context that this was an act of protest
5 by Mr. King against the government and absolutely was not a
6 racial act towards Congressman Cleaver.

7 The other thing that I wanted to point out is that
8 it is very clear that he didn't want to harm anyone. This
9 occurred in the middle of the night when nobody was there. At
10 the end of the day what happened was there was a broken window.

11 Clearly he has accepted responsibility. He has pled
12 guilty to the Court, and he is going to get ten years in
13 prison, and that's a lot of time for someone who has never been
14 in prison in his life.

15 That's the plea agreement we entered into, and so
16 that would be the sentence that we're asking for.

17 Thank you, Your Honor.

18 THE COURT: All right. Thank you.

19 Mr. King, is there anything you'd like to say this
20 morning?

21 THE DEFENDANT: Yes, sir. There are a few things I
22 would like to say.

23 THE COURT: All right. Ms. Allen, would you scoot
24 that microphone over so he can easily speak into it.

25 Thank you.

1 THE DEFENDANT: First I'd like to congratulate the
2 Court on such a stellar job. Another graffiti homeless person
3 is off the street. So I'm sure the FBI and Patrick are very
4 proud of themselves. This is a good picture for the United
5 States and they needed this. This is a solid win. You do an
6 amazing job up there.

7 This is supposed to be a chance for me to speak. I
8 didn't speak this entire time. You've held sentencing and
9 punishment over me, and even now no matter what I say you can
10 still hold that against me, not let me do things, not recommend
11 things. That's such a farce. This whole court's a farce.

12 I stated what I did. I'm happy I did it. The
13 government in this country is disgusting. The way they treat
14 poor people, the way they treat brown people, the way they
15 treat everyone that's not in the class of white and male is
16 disgusting, patriarchal, filthy racist.

17 You're all a part of this. From the man over there
18 who works the same corporation company that ran Prime Health
19 Pro (ph) to you that takes away freedom and tears apart the
20 community. You do that thinking that this is justice. This is
21 no justice in ripping people from their homes. For what?
22 Breaking a window? Ten years for breaking a window? And the
23 cop that killed Freddie Gray got zero? The people that killed
24 Trayvon Martin got zero? It's so horrendous.

25 And I'm not sorry for what I did. I'm sorry that I

1 got caught before I could do more things. I would have loved
2 to attack more government buildings and make sure that bubble
3 of safety that prosecutors and FBI agents and judges feel got
4 shattered so that they stay in their safe pockets knowing they
5 can't touch me even though there are consequences to my
6 actions. Same way we have consequences for our actions. If I
7 throw a hammer out a window, I get ten years in jail. If you
8 sentence a first-time offender to life in prison if he sold
9 meth, you get a clap on the back from the President and a job
10 for life. And if that's justice, then you're use of justice is
11 so skewed and just horrendously immoral.

12 Further, this isn't a victory for the State. This
13 isn't a win for any of you, any of you on this other side of
14 the table. It's done nothing but affirm my views, affirm my
15 beliefs that the government is just disgusting. Even when I
16 walk in I can't tell my wife I love her. I can't look at her
17 and smile because, what, I broke a window? That's justice?
18 That's fair? That's not justice. There's no rehabilitation in
19 that. There's no freedom in that. There's no constitutional
20 rights in that. It's just bullying. It's just the upper class
21 saying we're going to keep people who did not agree to our
22 rules and then decide not to live by them, we're going to keep
23 those people shackled up so we can live comfortably in our own
24 little bubbles and we never have to look outside of those
25 bubbles to realize what's really happening, which this class is

1 set up to keep people down, and when people step out of that
2 class system, they get punished horrendously, more than any
3 other country, any other country on earth, the land of the
4 free. It's despicable.

5 This sentence has brought me closer to the community
6 I really serve. That's the radical view, the poor community.
7 It's shown me what solidarity means. It's shown me what
8 friendship means. It's shown me what love means. It's shown
9 me what being a real human means, not standing by people when
10 they're knocked down, not further knocking them down, not going
11 after poor people if they want to provide for their families
12 and not do it the way that the white society thinks is
13 appropriate. You're disgusting.

14 Thank you, Your Honor.

15 THE COURT: Mr. Edwards, do you have anything you
16 want to say?

17 MR. EDWARDS: Judge, I don't think I'm going to
18 dignify any of that with a response. There is a mandatory
19 sentence in this case. I would ask that the Court impose that
20 sentence.

21 THE COURT: Thank you.

22 Well, Mr. King, you obviously have a history of
23 mental health issues, a history of substance abuse issues of a
24 significant nature. You are obviously a sick, deranged,
25 dangerous person. And I believe that you do fully deserve the

1 ten-year sentence that statutorily is required to be imposed.

2 And I hope that while you're in custody over a
3 period of time, you can take advantage of some of the treatment
4 opportunities that will be available to you to deal with some
5 of the obvious deep issues that you have.

6 I'm going to sentence you to a period of ten years
7 in the custody of the Bureau of Prisons; and upon your release,
8 I'm going to order that you be placed on supervised release for
9 a period of three years.

10 I find that you do not have the ability to pay a
11 fine. I waive the imposition of any fine. But you are ordered
12 to pay the United States a special assessment in the amount of
13 \$100, which is due immediately.

14 Restitution is ordered on Count 3 in the amount of
15 \$298. Lump sum payment of that full amount is ordered due
16 immediately. If you are unable to pay the full amount
17 immediately, while incarcerated, you are to make quarterly
18 payments of \$25 or at least 10 percent of your earnings,
19 whichever is greater, and while on supervised release, you are
20 to make monthly payments of \$150 or 10 percent of your gross
21 income, whichever is greater, to commence 30 days after you're
22 released from incarceration. Restitution is to be made to Penn
23 Hill Properties, L.L.C.

24 I find that you do not have the ability to pay
25 interest. I waive the imposition of any interest. But you are

1 to be aware that the government can enforce restitution at any
2 time.

3 You are to notify, within 30 days, the Clerk of the
4 Court and the United States Attorney's Office, Financial
5 Litigation Unit, 400 East Ninth Street, Kansas City, Missouri,
6 of any change of your name, residence, or mailing address and
7 any material change in economic circumstances that affects your
8 ability to pay restitution. All payments are to be made
9 through the Clerk of this Court.

10 And, Mr. King, while you are on supervision, I'm
11 going to order that you comply with all the mandatory and
12 standard conditions that have been adopted by the Court for
13 supervision as well as the special conditions listed in Part D
14 of the presentence investigation report.

15 Ms. Allen, I'm confident that you've reviewed those
16 special conditions with Mr. King; is that correct?

17 MS. ALLEN: Yes, I have, Your Honor.

18 THE COURT: Thank you.

19 I'm going to order that you be retained in custody
20 for service of the sentence imposed.

21 And, finally, Mr. King, there was a waiver of your
22 right to appeal under the terms of your plea agreement.
23 However, if you believe there is a basis for appeal that was
24 not waived, you need to know that you have only 14 days from
25 today, the day the sentence was imposed against you, to file a

1 notice of your intent to appeal. If you do not file that
2 notice within 14 days of today, all right to appeal will be
3 forfeited and waived by you.

4 My clerk, who is seated here just to my left, right
5 in front of you and Ms. Allen, has a form that she will give
6 you that you can use to file that notice of intent to appeal if
7 it's something that you wish to pursue.

8 Ms. Allen, anything further?

9 MS. ALLEN: Your Honor, only that the judgment
10 reflect our request that Mr. King be housed in Florence,
11 Colorado.

12 THE COURT: Mr. Edwards, anything from you?

13 MR. EDWARDS: Your Honor, in accordance with the
14 plea agreement, at this time I would move to dismiss Counts 1,
15 2, and 4.

16 THE COURT: All right. Those counts are dismissed.
17 Thank you.

18 (Adjournment)

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CERTIFICATE OF OFFICIAL REPORTER

I, Katherine A. Calvert, Federal Official Court Reporter, in and for the United States District Court for the Western District of Missouri, do hereby certify that the foregoing is a true and correct transcript of the stenographically reported proceedings in UNITED STATES OF AMERICA, Plaintiff, vs. ERIC G. KING, Defendant, No. 14-00286-01-CR-W-GAF.

Dated this 22nd day of August, 2016.

KATHERINE A. CALVERT, RMR, CRR
FEDERAL OFFICIAL COURT REPORTER